

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO. 21 OF 2007

SMT. LATA MANOHAR KERKER AND 4
ORS.,

... Petitioners

Versus

SHRI. SUBASH G. KENI

... Respondent

Mr. H. D. Naik, Advocate for the applicants.

Coram:- F.I. REBELLO, J.

Date:- 19th November, 2007

P.C.

Heard the learned Counsel for the parties. The respondents herein were the defendants before the trial Court. The plaintiff has filed the suit to restrain the defendants from damaging the suit shop which the respondent claims to be in their possession by virtue of being tenant of the premises.

The applicant herein filed an application under O.7, R.11 of C.P.C. praying that the plaint be rejected on the ground that the suit is barred by law. The major contention is that they have moved Rent Controller by an application for possession of the suit premises. The learned trial Court by an order dated 17.5.2007 has rejected the said application. This is the subject matter of the present C.R.A.

Heard the learned Counsel. In my opinion, the order of the learned Civil Judge, does not suffer from any error of jurisdiction. The tenant in possession of the premises cannot be dispossessed otherwise than by due process of law. In the instant case, the petitioners herein, till they have an order of eviction against the respondent herein, cannot dispossess the respondent. The Civil Court on the averment in the plaint had jurisdiction

to entertain the suit. The order impugned therefore, does not suffer from want of jurisdiction or illegality. In the light of that the revision filed is not maintainable and consequently disposed of.

F.I. REBELLO, J.

SMA